



NOVEMBER 1, 2018

PROJECT NO: 16-102
VIA US MAIL

CERTIFIED MAIL NO. 7015 3430 0000 7203 1918

RETURN RECEIPT REQUESTED

Ms. Carol Stein
U.S. Environmental Protection Agency – Region 2
290 Broadway
New York, NY 10007-1866

RE: Proposed 2018 Budget, Revision 4
Bankruptcy Case No. 1: 15-bk-10003-MFW; EPA ID No. VID980536080

Dear Ms. Stein:

The HOVENSA Environmental Response Trust (ERT) requests the reallocation of approved funds for closure of Land Treatment Units (Landfarms) No. 2 and 3; The ERT is not seeking additional monies for landfarm closure and is only seeking to reallocate approved closure budget funds to the 2018 calendar year expenditure budget. This reallocation will allow the completion of landfarm closure field activities in budget year 2018 rather than the originally anticipated 2019 completion of landfarm closure field activities.

The approved budget for closure of Landfarms 2 and 3 is found in Appendix C of the May 30, 2018 Landfarm Closure Plan and Post-Closure Plan, which was approved by EPA's May 29, 2018 letter, and the combined approved budget for closure of Landfarms 2 and 3 is \$1,168,931. The closure schedule for Landfarms 2 and 3 originally anticipated field activities would take up to one year to complete. When the ERT prepared the 2018 expenditure budget, the assumption at that time was that landfarm closure field activities would begin in mid-2018 and be completed in 2019. Landfarm 2 and 3 closure activities began on June 18, 2018, and, due to a combination of multiple factors, the ERT now has the ability to complete all landfarm closure field activities by December 15, 2018 with the closure report and certification to follow on February 12, 2019.

Of the \$1,168,931 approved budget for landfarm closure, \$676,000 was allocated to the 2018 budget approved by EPA in a letter dated May 22, 2018. The ERT intended the balance of the landfarm closure budget (\$492,931) would subsequently be included in the 2019 expenditure budget.

By this letter, the ERT is specifically requesting the inclusion of \$392,931 from the approved landfarm closure budget into the 2018 expenditure budget. Thus, the approved expenditures for landfarm closure during budget year 2018 will be \$1,068,931 (\$676,000 + \$392,931). The proposed 2019 expenditure budget will include the remaining \$100,000 of the approved landfarm closure expenditures which will be utilized for closure reporting and certification.

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A revised Table 1 summarizing the 2018 expenditure budget is attached. This table was originally submitted by the ERT on December 14, 2017 with revisions submitted on January 29, 2018 and April 4, 2018. The April 4, 2018 version was approved by EPA in a letter dated May 22, 2018. The single change in the attached revision is the amount in budget line item 6 (Landfarm 2 & 3 / RCRA Permit) for which EPA has sole approval authority.

A benefit to completing landfarm closure activities in 2018 as opposed to 2019 is greater conformance with the assumptions in the wind-down budget found in the February 17, 2016 ERT Agreement. The wind-down budget was based on the assumption that it would take approximately one year to complete modifications to the landfarm closure plan and approximately one year to complete landfarm closure activities (i.e. the landfarm closure plan would be modified by the end of 2016 and landfarm closure would be completed by the end of 2017). The assumptions for the wind-down budget include the post-closure period beginning by the end of 2017 and concluding at the end of 2047¹ at which time the ERT would presumably have completed all wind-down requirements and would be terminated. Though closure of Landfarms 2 and 3 was not achieved by the end of 2017, as contemplated by the wind-down budget, completion of Landfarm 2 and 3 closure by the end of 2018 provides greater alignment with the wind-down budget than closure achieved in 2019.

Thank you for your time and attention to this request. The ERT respectfully requests written approval from EPA as soon as possible to ensure continued compliance with the ERT Agreement. If additional information is required, please contact Carey Guilbeau at (340) 692-3179.

Sincerely,



Roberto Puga, P.G.
Principal of Project Navigator Ltd., solely in its capacity as Trustee for the HOVENSA Environmental Response Trust

Enclosure

cc: Ms. Amy Chester, EPA Region 2 (Chester.Amy@epa.gov)
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¹ 40 CFR §264.117 states the post-closure period continues for 30 years after the date of closure and EPA may shorten or extend the post-closure period.

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Table 1. HOVENSA Environmental Response Trust 2018 Budget
Revision 4

DRAFT

Revision 4: 10/30/18

Approval Authority	ERT Account	ERT Agreement Wind Down Estimate Line Items		ERT Account				RCRA Financial Assurance Trusts (Administered by EPA)				Limetree (As per Section 7.33 of the Asset Purchase Agreement)				2018 Totals				Consent Decree Escrow
				Q1 2018	Q2 2018	Q3 2018	Q4 2018	Q1 2018	Q2 2018	Q3 2018	Q4 2018	Q1 2018	Q2 2018	Q3 2018	Q4 2018	ERT Accounts	RCRA Financial Assurance	Limetree	2018 Totals	
EPA	Remediation	1	PRPP - OWS Testing & Repair ³									\$44,250	\$44,250	\$44,250	\$44,250			\$177,000	\$177,000	
EPA	Remediation	2	Scrap Metal / Recycle Yard Management									\$465,000	\$465,000	\$465,000	\$465,000			\$1,860,000	\$1,860,000	
EPA	Remediation	3	Asbestos Landfill																\$0	
EPA	Remediation	4	Corrective Action / Remediation / Hydrocarbon Recovery					\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0		\$0	\$0	\$0	
EPA	Remediation	5	Landfarm 1 Post-Closure					\$14,050	\$14,050	\$14,050	\$14,050						\$56,200		\$56,200	
EPA	Remediation	6	Landfarm 2 & 3 / RCRA Permit	\$ 252,000	\$197,000					\$338,000	\$730,931					\$449,000	\$1,068,931		\$1,517,931	
DPNR	Remediation	7	TPDES																\$0	
EPA	Remediation	8	WWT (Primary & Secondary) ⁴					\$525,000	\$525,000	\$525,000	\$525,000						\$2,100,000		\$2,100,000	
US/VI ¹	Administrative	9	Data & Records Management & Retention									\$30,000	\$30,000					\$ 60,000	\$60,000	
DPNR	Remediation	10a	Consent Decree - VI TSEP ²																\$0	\$4,875,000
EPA		10b	Consent Decree - WAPA Project ²	\$423,898												\$423,898			\$423,898	
DPNR	Remediation	Line 11	Air Permitting / Title V																\$0	
EPA	Remediation	Lines 12 - 24	Tier II, TRI / EI, TSCA, BWON, GHGs, CEMs, Boiler MACT, LDAR, Refinery MACTs, Regional Haze, SO2 non-attainment, SOCMI-HON, Tank Requirements																\$0	
EPA / DPNR	Remediation	Line 25	Potable Water / SDWA																\$0	
US/VI ¹	Administrative	26	Utilities: Electric																\$0	
US/VI ¹	Administrative	27	Utilities: Compressed Air & Water ³									\$12,501	\$12,501	\$12,501	\$12,501			\$50,004	\$50,004	
US/VI ¹	Administrative	28	Security																\$0	
US/VI ¹	Administrative	29	Business Operating Expenses									\$18,100	\$18,100	\$18,100	\$18,100			\$72,400	\$72,400	
DPNR	Remediation	30	PLL Insurance Premium																\$0	
US/VI ^{1,5}	Administrative	31	Fees for Trust and Trustee									\$36,000	\$36,000	\$36,000	\$36,000			\$144,000	\$144,000	
DPNR	Remediation	N/A	Marine Impact Study																\$0	
TOTALS				\$675,898	\$197,000	\$0	\$0	\$539,050	\$539,050	\$877,050	\$1,269,981	\$605,851	\$605,851	\$575,851	\$575,851	\$872,898	\$3,225,131	\$2,363,404	\$6,461,433	\$4,875,000
2018 ERT BUDGET (Excludes VI TSEP)																			\$6,461,433	

Notes:

¹ This approval requirement (Section 7.13.5 of the ERT Agreement) is interpreted to mean the U.S. represented by U.S. DOJ and the VI represented by the Virgin Islands Attorney General.

² These expenditures are subject to the terms of the Consent Decree between HOVENSA, L.L.C. and the United States of America (Civil Action No. 1:11-cv-00006)

³ The ERT is renegotiating these costs with Limetree Bay Terminals, LLC.

⁴ The ERT is in the process of reviewing alternative options for WWT, including renegotiated prices with Limetree Bay Terminals, LLC.

⁵ The base estimated fee for 2018 is \$36,000 per quarter, or \$144,000 per year. \$16,000 will be rolled over to the first quarter from the 2017 budget underrun to complete shared services negotiations with LimeTree.

Revision List:

Revision 1: 1/29/18 - Column Heading "Funding Source" was removed from the ERT Accounts, RCRA Financial Assurance Trusts and Limetree Columns.

Revision 2: 1/29/18 - Column Heading Under "2018 Totals" was revised from "All Funding Sources" to "2018 Totals."